

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RAMELL MARKUS,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.

18-CR-32-2 (ARR),
23-CV-5756 (ARR)

NOT FOR ELECTRONIC
OR PRINT PUBLICATION

OPINION & ORDER

ROSS, United States District Judge:

Petitioner, Ramell Markus, a federal prisoner proceeding *pro se*, has filed a second motion to amend his motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. Pet'r's Mot., ECF No. 229. On August 18, 2023, I granted Mr. Markus's first motion to amend, directing him to file his amended motion within sixty days; however, I declined his request to hold his original Section 2255 motion "in abeyance" as a "placeholder" motion, explaining that any amendment filed after the one-year statute of limitations period expired on October 3, 2023 would need to relate back to the original motion. *See* Order, ECF No. 225.

Seventy-four days later, Mr. Markus filed a memorandum in support of his Section 2255 motion, as well as second motion to amend. Pet'r's Mem. in Support, ECF No. 228. Although the memorandum includes some additional facts in support of his Section 2255 motion, Mr. Markus explains that it was not prepared by a paralegal and that he has not yet had time to review it. Pet'r's Mot. 1. He reiterates that prison lockdowns have made it difficult for him to review and include all the facts relevant to his claims. *Id.* He requests an additional thirty days within which to file an amended Section 2255 motion. *Id.*

Mr. Markus missed the original deadline to file his amended Section 2255 motion. Given his status as a *pro se* party and the latitude that must be afforded to such litigants, however, I will exercise my discretion to consider his untimely submissions and GRANT his second motion to amend. See *Official Committee of Unsecured Creditors of Exeter Holdings, Ltd. v. Haltman*, 2017 WL 9485707, *5 n.4 (E.D.N.Y.), *adopted*, 2017 WL 3981299 (E.D.N.Y. 2017). Any amended Section 2255 motion must be filed within 30 days of Mr. Markus's amended motion, on or before November 30, 2023. Mr. Markus is forewarned that filing deadlines must be complied with, and that I will not consider any amended motion filed after November 30, 2023.

Prior to receiving Mr. Markus's second motion to amend, I ordered the government to show cause why a writ of habeas corpus should not be issued and granted the government's motion for an extension of time in which to do so. Docker Orders Dated October 23, 23; November 2, 2023. In light of my granting Mr. Markus's second motion to amend, the government is ordered to file its response within 14 days of the filing of Mr. Markus's amended motion or, if he does not file an amended motion, on or before December 14, 2023.

SO ORDERED.

/s/
Allyne R. Ross
United States District Judge

Dated: November 2, 2023
Brooklyn, New York